



AN tÚDARÁS NÁISIÚNTA IOMPAIR – NATIONAL TRANSPORT AUTHORITY

WHEELCHAIR ACCESSIBLE SPSV GRANT SCHEME 2023 (WAV23)

TERMS AND CONDITIONS

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1. Definitions and Interpretation

1.1 Definitions

“**2013 Act**” means Taxi Regulation Acts 2013 and 2016;

“**Applicant**” means a person (individual or a company with a designated driver proposed) who signs the application form for the Wheelchair Accessible Vehicle Grant Scheme (form WAV23A);

“**Approved Applicant**” means an Applicant who receives a Provisional Grant Letter;

“**Company**” means a company formed and registered under the Companies Act;

“**de minimis Regulation**” means Commission Regulation (EU) No 1407/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid (OJ L 352, 24.12.2013 p 1-8);

“**Excluded Aid**” has the meaning given to it in the de minimis Regulation;

“**Grant**” means the sum or sums of money being made available by NTA to the Approved Applicant pursuant to, and in accordance with, the Provisional Grant Letter and these Terms and Conditions;

“**Maximum Available Amount**” means, in your case, the difference between:

- a) two hundred thousand euro (€200,000); and
- b) the aggregate of any de minimis aid granted to you during this financial year and the immediately previous two (2) financial years (whether in accordance with the de minimis Regulation or any other EU de minimis regulations, including but not limited to Regulation 360/2012);

“**Owner**” means, in relation to a Wheelchair Accessible Vehicle, any of:

- a) the Registered Owner of the Wheelchair Accessible Vehicle; or
- b) the person whom a member of An Garda Síochána or an officer of NTA can reasonably ascertain keeps or has possession or charge or control, whether actual or constructive (including arising from a leasing or similar arrangement) of the Wheelchair Accessible Vehicle;

“**Provisional Grant Letter**” means a letter in which NTA offers to make available to the Approved Applicant a Grant subject to certain conditions;

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“Recipient” means an Applicant who receives or is in the process of receiving a Grant;

“Service” or “Services” means the carriage or intended carriage for reward of persons who travel while seated in a wheelchair, and other persons travelling with such person, in accordance with the SPSV Regulations;

“Services Period” means the aggregate of:

- a) the period of thirty-six (36) months from the date of issue of the Grant to the Recipient’s nominated bank account; and
- b) to the extent which paragraph 9 applies, the period during which the Wheelchair Accessible Vehicle is not being used in the provision of Services;

“Small Public Service Vehicle” or “SPSV” has the meaning assigned to it by section 2 of the Taxi Regulation Acts 2013 and 2016;

“SPSV Regulations” means the Taxi Regulation (Small Public Service Vehicle) Regulations 2015 and 2016;

“SPSV Driver Licence” means a licence to drive an SPSV granted to an individual in accordance with the SPSV Regulations;

“Tax” means any tax, levy, impost, duty or other charge or withholding of a similar nature (including any penalty or interest payable in connection with any failure to pay or any delay in paying any of the same);

“WAV” means a wheelchair accessible taxi or a wheelchair accessible hackney (having the meanings assigned in accordance with the SPSV Regulations) or a wheelchair accessible limousine;

“Wheelchair Accessible Vehicle” means a wheelchair accessible taxi or a wheelchair accessible hackney (having the meanings assigned in accordance with the SPSV Regulations) or a wheelchair accessible limousine;

“Wheelchair Accessible Vehicle Licence” means a licence granted in accordance with the SPSV Regulations in respect of a Wheelchair Accessible Vehicle;

“Working Day” means a day (other than a Saturday or Sunday or public holiday) on which banks are open for general business in Ireland.

1.2 Interpretation

- a) Unless a contrary indication appears, a reference in these Terms and Conditions to:
- i. the **"NTA"**, **"Applicant"**, **"Approved Applicant"**, **"Recipient"**, any **"Party"** or any other person shall be construed so as to include its successors in title, permitted assigns and permitted transferees;
 - ii. **"VAT"** shall be construed as a reference to value added tax including any similar tax which may be imposed in place thereof from time to time;
 - iii. a provision of law is a reference to that provision as amended or re-enacted; and
 - iv. a time of day is a reference to Ireland time.
- b) Paragraph and Schedule headings are for ease of reference only.

1.3 Currency symbols and definitions

"€" denotes the lawful currency of Ireland.

2. The Grant

- 2.1 NTA may make available to the Approved Applicant from time to time a Grant, subject to, and in accordance with, the Provisional Grant Letter and these Terms and Conditions.

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- 2.2 The Grant Scheme commences on 01 January 2023 and applications will be considered on a first received basis, subject to an application being satisfactorily completed, until the available funds are expended.
- 2.3 The last date for the receipt by NTA of applications for the Grant Scheme is 30 November 2023 or when the funding is expended whichever is the earlier.
- 2.4 The closing date for the Grant Scheme is 15 December 2022, meaning
- a) the proposed wheelchair accessible vehicle must have passed its initial suitability test and have received a licence; and
 - b) the proposed driver must have completed an NTA approved disability awareness training programme by that date in order to qualify for the Grant.
- 2.5 NTA shall reject an application if the Applicant has had a prosecution or complaint (in respect to SPSV operation) upheld against them within the 24 months preceding the application or such is pending while the application is in progress.
- 2.6 NTA shall reject an application if:
- a) that Applicant previously received a Grant in respect of the same wheelchair accessible vehicle;
 - b) the wheelchair accessible vehicle which is the subject of the Grant application, has previously been licensed as a WAV in the name of the Applicant; or

- c) the wheelchair accessible vehicle which is the subject of the Grant application, has previously received grant funding within the last three (3) calendar years.

3. Payment of the Grant

- 3.1 NTA shall not have any obligation to any Approved Applicant under any Provisional Grant Letter or these Terms and Conditions, including, without limitation, to make available any Grant, unless and until NTA has received in form and substance satisfactory to NTA evidence of the fulfilment of the conditions precedent specified in the Provisional Grant Letter and these Terms and Conditions. Such conditions are for the sole benefit of NTA and may be waived or deferred in whole or in part and with or without conditions by NTA in its absolute discretion.
- 3.2 NTA shall retain the entirety of the Grant until it is in receipt of a certificate of satisfactory completion of a disability awareness training course specific to SPSV operation approved by NTA specific to the Recipient. Where the Recipient does not attend the free NTA provided disability awareness training specific to SPSV operation course at the time, date and location provided by NTA or does not reschedule same within the timeline outlined in the "Information Guide for WAV23 Grant Scheme Applicants", a non-attendance or late-rescheduling fee of fifty euro (€50) shall be paid by the Recipient prior to the issue of the Grant.
- 3.3 The Grant shall be issued to the Approved Applicant's nominated bank account within twenty (20) Working Days of the conditions specified in the Provisional Grant Letter for such Grant being satisfied in a manner acceptable to NTA.

4. Acknowledgement by the Recipient

The Recipient hereby acknowledges that:

- a) NTA, in making the Grant available to the Recipient, is not acting as a lender or finance provider of any kind;
- b) the wheelchair accessible SPSV purchased or converted by the Recipient in accordance with these Terms and Conditions is the sole responsibility of the Recipient and, for the avoidance of doubt, NTA does not accept any responsibility or liability in relation to the wheelchair accessible SPSV or any agreements associated therewith; and
- c) NTA may monitor and take steps to determine the compliance by the Recipient with its obligations relating to the wheelchair accessible SPSV and these Terms and Conditions.

5. Use of Wheelchair Accessible SPSV

5.1 The Recipient shall:

- a) make the wheelchair accessible SPSV available for the purpose of providing the Services for the Services Period in accordance with these Terms and Conditions;
- b) drive the wheelchair accessible SPSV himself or herself or, where the vehicle is being purchased or converted to be driven by others, shall ensure that any driver of the vehicle:
 - i. holds a valid SPSV licence; and

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- ii. is affiliated to, or employed by, a licensed dispatch operator;
and
 - iii. has attended a Disability Awareness Training course specific to SPSV operation approved by NTA and received a certificate of satisfactory completion of such course; and
 - c) when engaged in the carriage or intended carriage of persons, give priority to bookings and Services in respect of persons with disabilities, including persons who wish to travel in their wheelchairs over those who may use a SPSV that is not a WAV;
 - d) register their name, telephone number, website address (where applicable), email address and direct booking app details (where applicable) on the "Wheelchair Accessible Vehicle (WAV) Register" located on the Transport for Ireland website for the direct booking of the Services by or on behalf of passengers requiring WAV Services;
and
 - e) operate any free smartphone booking application nominated by NTA for the priority provision of the Services.
- 5.2
- a) The Recipient shall not without the prior written consent of NTA use or permit the use of the WAV except in accordance with paragraph 5.1 above.
 - b) These Terms and Conditions shall apply also to any WAV which is substituted for, or is replacing, the wheelchair accessible SPSV during the Services Period.

6. Cancellation and Repayment

- 6.1 NTA may close or cancel this Grant scheme at any time without prior notice.
- 6.2 NTA may stop payment of the Grant and/or revoke and cancel the Grant and require and demand repayment of the amounts previously paid by it (or such lesser amount in respect of the Grant as NTA may determine to be appropriate in the prevailing circumstances) if any one or more of the following events occur:
- a) if the Approved Applicant or Recipient commits a breach of any of the terms, conditions or warranties of these Terms and Conditions and fails to rectify such breach within ten (10) Working Days after written notice thereof has been served by NTA on the Approved Applicant or Recipient;
 - b) if the Approved Applicant or Recipient, being a body corporate, enters into liquidation whether compulsory or voluntary or becomes insolvent or enters into receivership or examinership or enters into any arrangement with its creditors or takes or suffers any similar action in consequence of debt other than a bona fide amalgamation or reconstruction of the Approved Applicant or Recipient;
 - c) if the Approved Applicant or Recipient, being a natural person, is declared bankrupt or enters into any arrangement with his or her creditors or takes or suffers any similar action in consequence of debt;
 - d) if it becomes unlawful for NTA to perform any of its obligations as contemplated by these Terms and Conditions;

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- e) if, at any time during the Services Period, the Recipient ceases to make the wheelchair accessible SPSV available for the purpose of providing the Services;
- f) if, at any time during the Services Period, the Recipient has a prosecution or complaint (in respect to SPSV operation) upheld against them;
- g) if the Recipient suspends or ceases to carry on (or threatens to suspend or cease to carry on) within the Services Period:
 - i. all or a material part of his, her or its business or trade; or
 - ii. the provision of the Services,without the prior written consent of NTA;
- h) if the Approved Applicant or Recipient rescinds or purports to rescind or repudiates or purports to repudiate these Terms and Conditions or evidences an intention to rescind or repudiate these Terms and Conditions; and
- i) to the extent paragraph 8.3 applies and either:
 - i. the wheelchair accessible SPSV is not being used in the provision of Services,
 - ii. the wheelchair accessible SPSV journey records are not provided in full to NTA when requested,

or

- iii. the wheelchair accessible SPSV which has suffered damage or loss (as referred to in paragraph 8.3(a)) has not been replaced with a replacement vehicle,

within three (3) months of the event giving rise to the damage or total loss occurring.

6.3 The Approved Applicant or Recipient hereby agrees that on the occurrence of any of the events referred to in paragraph 6.2:

- a) it shall immediately notify NTA of the occurrence of such event in writing; and
- b) within ten (10) Working Days of the date of a written demand from NTA it shall repay to NTA the amount determined by NTA as to be paid to it in respect of the Grant together with all costs incurred by NTA in the recovery of such monies.

6.4 The amount specified by NTA in any notice issued pursuant to paragraph 6.2 in relation to the amount of the Grant or, if applicable, its costs shall, except in the case of manifest error, be conclusive.

6.5 If the Recipient fails to pay any amount payable by it under these Terms and Conditions on its due date, interest shall accrue on the overdue amount from the due date up to the date of actual payment at the European Central Bank rate plus 2%. Any interest accruing under this paragraph 6.4 shall be immediately payable by the Recipient on demand by NTA.

7. Operation, Maintenance and Repair

- 7.1 The Recipient shall operate the wheelchair accessible SPSV:
- a) in the normal and ordinary course of its operations and in a careful manner and not for any purpose for which it is not designed or reasonably suited; and
 - b) in accordance with all applicable laws.
- 7.2 The Recipient shall at its own expense register the wheelchair accessible SPSV and pay any applicable registration fees, licence fees, vehicle inspection fees, Taxes, tolls or other costs and expenses payable in connection with the purchase, registration and/or licensing of the wheelchair accessible SPSV.
- 7.3 The Recipient shall ensure that no modification to or change or alteration in the wheelchair accessible SPSV is made without the prior written consent of NTA which will have the effect of reducing the roadworthiness of the wheelchair accessible SPSV except as is:
- a) necessary for compliance with applicable laws; or
 - b) required by the manufacturer; or
 - c) attributable to fair wear and tear.

The Recipient may, at its own expense, make modifications, alterations and improvements to the wheelchair accessible SPSV (including making any associated changes to the manuals and technical documents) if such modifications, alterations and improvements do not have the effect of reducing the roadworthiness, utility or remaining useful life of the wheelchair accessible SPSV.

7.4 a) NTA shall have the right at any time on reasonable notice (being not less than one (1) Working Day) to inspect, or to require (at such address as it may specify) the inspection of, the wheelchair accessible SPSV.

b) The Recipient shall make the wheelchair accessible SPSV available to NTA if NTA exercises its rights and shall otherwise facilitate NTA's inspection of the wheelchair accessible SPSV.

7.5 The Recipient shall:

a) maintain all such records, information and documents that are required to be maintained in respect of the wheelchair accessible SPSV to comply with any applicable laws and in accordance with prudent ownership, operating and management practice;

b) keep accurate, complete and up to date records concerning the wheelchair accessible SPSV and of all maintenance, repairs, additions, alterations and modifications to, and removal of parts from, the wheelchair accessible SPSV; and

c) permit NTA or its representatives at any time on reasonable notice to examine and take copies of such records, information and documents.

8. Insurance and Replacement

8.1 The Recipient shall ensure that such insurances in respect of the wheelchair accessible SPSV as may be required by law are taken out and maintained, and shall furnish such evidence in this respect as NTA may require.

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- 8.2 If there should be damage to or loss of the wheelchair accessible SPSV through fire or accident or any other cause during the Services Period, the insurance or other compensation received by the Recipient shall be used forthwith to restore the wheelchair accessible SPSV so damaged or lost.
- 8.3 If there should be damage to or loss of the wheelchair accessible SPSV resulting in that SPSV being unavailable for use in the provision of Services during the Services Period in accordance with all applicable legal requirements, the Recipient may, subject to licensing in accordance with the Small Public Service Vehicle Regulations, substitute for such wheelchair accessible SPSV any other vehicle owned by it provided that such vehicle meets the wheelchair accessible vehicle standards applicable to a SPSV at the time of replacement.

9. Information Undertakings

The undertakings in this paragraph 9 (Information Undertakings) remain in force from the date of issue of the Grant for the Services Period.

- a) The Recipient shall make available to NTA, immediately upon any request and at least every six months without request, copies of the booking records in respect of the vehicle for the previous six month period or shall supply to NTA evidence in form and substance satisfactory to NTA that the Recipient has provided the Services in accordance with these Terms and Conditions.
- b) The Recipient shall notify NTA of any Specified Event (and the steps, if any, being taken to remedy it) promptly upon becoming aware of its occurrence.

10. General Undertakings

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The Approved Applicant and Recipient shall comply with all applicable laws and legal requirements in connection with the performance of its obligations under these Terms and Conditions.

11. Changes to the Approved Applicant or Recipient

The Approved Applicant or Recipient may not assign any of its rights or transfer any of its rights or obligations under these Terms and Conditions without the consent in writing of NTA.

12. Notices

12.1 Where either NTA or the Approved Applicant or Recipient is required to notify the other pursuant to these Terms and Conditions, or otherwise wishes to communicate with the other, such notice or communication may be served:

a) in the case of the Approved Applicant or Recipient to NTA:

- I. by post to: ***SPSV Regulation – WAV23, National Transport Authority, PO Box 436, City North Business Park, Tuam Road, Galway***, or

b) in the case of NTA to the Approved Applicant or Recipient:

- I. by post or delivery to such address as provided by the application in the grant application form or as subsequently amended and notified in writing to NTA;
- II. by e-mail to such address as may be notified in writing by the Applicant, Approved Applicant or Recipient to NTA from time to time; or

III. by such other means as NTA may consider appropriate.

12.2 Any notice or communication so served shall be deemed duly served:

a) in the case of post, forty eight (48) hours after posting or if delivered by hand, on delivery; or

b) in the case of e-mail, facsimile transmission and other forms of instantaneous communication upon delivery.

12.3 If notification is by telephone or in person, it will only be effective if confirmed by written notice served in accordance with this paragraph 13 within five (5) Working Days of such notification by telephone or in person.

13. Governing Law

These Terms and Conditions are governed by and shall be construed in accordance with Irish law.

14. State Aid Rules

14.1 There is currently a three year horizon applicable to aid made available pursuant to the de minimis Regulation. Accordingly, the total amount of de minimis aid granted per Member State to a Single Undertaking shall not exceed €200,000 over any period of three fiscal years. If an Applicant has received aid under the de minimis Regulation or any other de minimis frameworks exceeding this amount in the current financial year and its previous two financial years, it will not be eligible for WAV23.

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14.2 An Approved Applicant will need to declare any amount made available under WAV23 to any other aid awarding body who requests information on how much de minimis aid it/they have received.

14.3 The amount of the WAV Grant being made available to an Approved Applicant shall not exceed the Maximum Available Amount.